

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CV 13-0653 LH/KBM
CR 11-0290 LH

HECTOR CORDOVA,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

This matter is before the Court *sua sponte*. By order entered on July 23, 2013, the Court directed Defendant to show cause why his Motion to Vacate and Correct Illegal Sentence (CV Doc. 1; CR Doc. 70) should not be dismissed as untimely. Defendant has not responded to the order.


As the Court noted in the earlier order, the docket in this criminal proceeding indicates that the Court entered judgment (CR Doc. 64) on Defendant's conviction and sentence on June 6, 2012. Defendant did not appeal the judgment, and thus his conviction became final on or about June 20, 2012. *See United States v. Sandoval*, 371 F. App'x 945, 948 n. 2 (10th Cir. 2010). More than a year later, on July 15, 2013, Defendant filed this motion under 28 U.S.C. § 2255, even though the one-year limitations period had expired.¹ Defendant is not entitled to relief, and under rule 4(b) of the Rules Governing Section 2255 Cases, the Court must dismiss this § 2255 motion as untimely filed.

Furthermore, *sua sponte* under rule 11(a) of the Rules Governing Section 2255 Cases, the Court determines that Defendant has failed to make a substantial showing that he has been denied

¹ As also noted in the earlier order, the motion appears to be untimely even if, as Defendant asserts, he deposited it in the prison mail system on June 25, 2013.

a constitutional right. The Court will therefore deny a certificate of appealability.

IT IS THEREFORE ORDERED that Defendant's Motion to Vacate and Correct Illegal Sentence (CV Doc. 1; CR Doc. 70) filed on July 15, 2013, is DISMISSED as untimely filed; a certificate of appealability is DENIED; and judgment will be entered.



SENIOR UNITED STATES DISTRICT JUDGE